

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN OF TEXAS
LAREDO DIVISION**

KAS VENTURES, LLC	§	
	§	
<i>Plaintiff,</i>	§	
	§	
	§	
v.	§	Civil Action No. 5:21-cv-26
	§	
	§	
CRUM & FORSTER INDEMNITY COMPANY	§	
	§	
	§	
<i>Defendants.</i>	§	

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§1441 and 1446, Defendant Crum & Forster Indemnity Company (“Crum & Forster”) files this Notice of Removal on the basis of diversity of citizenship and jurisdictional amount, and respectfully shows the Court the following:

REMOVAL IS TIMELY

1. Crum & Forster is the Defendant in Cause No. 11263 filed in the 49th Judicial District Court of Zapata County, Texas, styled *KAS Ventures v. Crum & Forster Indemnity Company*. Plaintiffs commenced this civil action against Crum & Forster in the state court on January 29, 2021. Crum & Forster was first served with Plaintiff’s Original Petition (the “Petition”) on February 26, 2021.

2. Therefore, service of process in this cause was served on Crum & Forster not more than thirty (30) days before the filing of this notice, and this Notice of Removal is being filed within one year of the date suit was first filed in state court.

BASIS FOR REMOVAL

3. Removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a), 1441(a) and 1446.

A. There is Complete Diversity

4. In its Original Petition, Plaintiff KAS Ventures LLP (“KAS Ventures”) acknowledges that it is a citizen of the State of Texas residing in Zapata County. (Pl.’s Orig. Pet. at ¶ 2)

5. Both at the time the lawsuit was originally filed, and at the time of removal, Plaintiff KAS Ventures is a limited liability company incorporated and existing under the laws of Texas, keeping its principal place of business in San Antonio, Texas. Upon information and belief, each of Plaintiff’s managing members reside in San Antonio, Texas. SherAli Ali is a citizen of the State of Texas and resides at 25010 Fairway Springs, San Antonio, Texas 78260; Karim Khanmohamed is a citizen of the State of Texas and resides at 20 Westerleigh, San Antonio, Texas 78218; Ashraf Mistry is a citizen of the State of Texas and resides at 2911 Encino Robles, San Antonio, Texas 78259.

6. Both at the time the lawsuit was originally filed, and at the time of removal, Defendant Crum & Forster is a corporation incorporated and existing under the laws of Delaware, keeping its principal place of business in Morristown, New Jersey.

B. The Amount in Controversy Exceeds \$75,000.00

7. This is a civil action in which the amount in controversy exceeds the jurisdictional limits of \$75,000.00. In determining the amount in controversy, the Court may consider, “penalties, statutory damages, and punitive damages.” *St Paul Reinsurance Co, Ltd v Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998); *see also Ray v State Farm Lloyds*, 1999 WL 151667, at *2 -

3 (N.D. Tex. 1999) (finding sufficient amount in controversy in plaintiff's case against the insurer for breach of contract, bad faith, violations of the Texas Insurance Code and Texas Deceptive Trade Practices Act and mental anguish). Plaintiff alleges that Crum & Forster is liable for breach of contract, common law fraud, conspiracy to commit fraud, common law and statutory bad faith, and violations of Chapters 541 and 542 of the Texas Insurance. Plaintiffs seek to recover actual damages, exemplary damages, compensatory damages, additional statutory damages, post-judgment interest, and reasonable and necessary attorneys' fees. Plaintiff's Original Petition does not allege an amount in controversy, but its pre-suit notice letter identifies actual damages and attorneys' fees of at least \$200,000.00. (Attached as Exhibit B). Accordingly, the amount in controversy clearly exceeds \$75,000.¹

8. Accordingly, by virtue of diversity of citizenship the United States district courts have original jurisdiction.

STATE COURT DOCUMENTS BEING FILED

9. Pursuant to 28 U.S.C. §1446(a), attached hereto as Exhibit "A" is the Index of Matters Being Filed that clearly identifies each document and indicates the date the document was filed in state court. Attached as Exhibit "C" is a copy of the docket sheet, and all documents filed in the state court action are attached.

PRAYER

Therefore, based upon 28 U.S.C. §§1441 and 1446, Crum & Forster respectfully requests that this action be removed to the United States District Court for the Southern District of Texas,

¹ See, e.g., *Theodoridis v. Balboa Ins. Co.*, CV G-10-497, 2011 WL 13257650, at *1 (S.D. Tex. Feb. 3, 2011), *report and recommendation adopted*, CV G-10-497, 2011 WL 13257647 (S.D. Tex. Feb. 24, 2011) (denying Motion to Remand where pre-suit demand letter sought approximately \$46,000).

Laredo Division, and that it be granted such other and further relief to which it may show itself justly entitled.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ Christopher H. Avery
BRIAN S. MARTIN
State Bar No. 13055350
E-Mail: bmartin@thompsoncoe.com
CHRISTOPHER H. Avery
State Bar No. 24069321
E-Mail: cavery@thompsoncoe.com
One Riverway, Suite 1400
Houston, TX 77056
Telephone: (713) 403-8210
Telecopy: (713) 403-8299

**ATTORNEYS FOR DEFENDANT
CRUM & FORSTER INDEMNITY COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of March, 2021, a true and correct copy of the foregoing instrument has been forwarded to all counsel of record.

Cristobal M. Galindo
Joe Gibson
GALINDO LAW
4151 Southwest Freeway, Suite 602
Houston, Texas 77027
StormCase@GalindoLaw.com
Attorneys for Plaintiff

/s/ Christopher H. Avery
CHRISTOPHER H. Avery